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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/345,755	07/01/1999	AKIHIKO SUGIURA	PM-262230-70	1611
909	7590	12/11/2003	EXAMINER	
PILLSBURY WINTHROP, LLP			KUMAR, PANKAJ	
P.O. BOX 10500			ART UNIT	PAPER NUMBER
MCLEAN, VA 22102			2631	
DATE MAILED: 12/11/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/345,755	SUGIURA, AKIHIKO	
	<b>Examiner</b>	<b>Art Unit</b>	
	Pankaj Kumar	2631	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 22 August 2003.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-16 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-16 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 8/22/2003 have been fully considered but they are not persuasive.
2. Applicant argues that since RF could possibly be code, RF could also possibly not be code and therefore RF in the reference does not teach the code limitation in the claim. This is not persuasive. The claims were rejected not for anticipating (i.e. the claims are not rejected under 102 rejections). The claims are rejected since it would be obvious for one skilled in the art to consider RF to be code (i.e. the claims are rejected under 103 rejections). It would have been obvious to one skilled in the art at the time of the invention to modify Rypkema to make the RF a code sequence. One would be motivated to do so in order to have sensible RF signal. If RF in Rypkema were not a code sequence, Rypkema's system would not be functional since Rypkema needs information or code(s) to send sensible intelligible information to the television or even to receive sensible intelligible information via the remote.
3. Applicant also argues that Rypkema only breaks sound frequencies while their application breaks more than just sound frequencies. This is not persuasive since applicant has not claimed more than just sound frequencies. Claims have "breaking-wave transmitting", "communication breaking", "communicating breaking", etc. In Rypkema, sound that is transmitted and that is used for communication and is used to communicate is breaking.
4. Applicant also argues PN code sequence. These arguments are not persuasive since the applicant has not claimed PN code sequence.

***Specification***

5. The disclosure is objected to because of the following informalities: Table 2 does not contain information a tabular format. Table 2 was objected to in the prior action also.

Appropriate correction is required.

***Claim Objections***

6. The listing of the claims for claim 1 is objected to because of the following informalities: In the listing of the claims section, claim 1 is indicated to be original but there are amendments to claim 1 as noted on page 3 of applicant response. Claim 1 should say ‘Currently Amended’ instead of “Original”.

***Response to Amendment***

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rypkema.

9. As per claim 1, Rypkema teaches a communication breaking device for breaking interrupting communication of a communication apparatus which modulates or demodulates information about contents of the communication being communicated with a predetermined code sequence, said communication breaking device comprising: code sequence extracting

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means which is capable of extracting the predetermined code sequence from a received incoming wave (Rypkema fig. 1: 12 to 30; What Rypkema might not teach is a code sequence. Instead, what Rypkema uses is RF which possibly could be a code sequence. It would have been obvious to one skilled in the art at the time of the invention to modify Rypkema to make the RF a code sequence. One would be motivated to do so in order to have sensible RF signal. Also, it should be noted that Rypkema teaches in col. 2 lines 27 to 34: "Thus, in general terms, the principles of the present invention are equally applicable to any radio frequency signal processing apparatus wherein an angle modulated carrier, the angle modulation being either of the frequency or phase type, is developed including conventional television receivers, cable television converters, subscription television decoders and the like." Hence, with Rypkema mentioning decoder, Rypkema is also meant to work on code.); code sequence inverting means which is capable of inverting the code sequence extracted by said code sequence extracting means into an inverted code sequence (Rypkema fig. 1: 40: muting oscillator); phase control means which is capable of advancing the phase of the extracted code sequence or that of the inverted code sequence (Rypkema fig. 2: 60 with other components; fig. 4: 60, 92 with other components); and breaking-wave transmitting means for transmitting the inverted code sequence having the advanced phase as a communication breaking wave (Rypkema fig. 1: 38) so as to obtain a communication breaking space (Rypkema: space where communication is muted; title).

10. As per claim 2, Rypkema teaches a communication breaking device according to claim 1, wherein the advancement phase advancing is performed by said phase control means in a quantity corresponding to at least one code of the extracted code sequence or the inverted code

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sequence (Rypkema fig. 2: phase advanced in quantity corresponding to the size of the RF or portion thereof).

11. As per claim 3, Rypkema teaches a communication breaking device according to claim 1, wherein said breaking-wave transmitting means ~~incorporates~~ comprises electric-power amplifying means (Rypkema fig. 4: 28) which is capable of ~~arbitrarily control~~ controlling an amplification gain (Rypkema fig. 4: since 28 is an amplifier, it has some gain which has been set and hence controlled).

12. As per claim 4, Rypkema teaches a communication breaking device according to claim 2, wherein said breaking-wave transmitting means ~~incorporates~~ comprises electric-power amplifying means (Rypkema fig. 4: 28) which is capable of ~~arbitrarily control~~ controlling an amplification gain (Rypkema fig. 4: since 28 is an amplifier, it has some gain which could have been arbitrarily set and hence controlled).

13. As per claim 5, Rypkema teaches a communication breaking device according to claim 1, wherein said breaking-wave transmitting means intermittently transmits the communication breaking wave (Rypkema fig. 2: with switch 42, we can intermittently switch muting on or off and hence intermittently transmit breaking wave).

14. As per claim 6, Rypkema teaches a communication breaking device according to claim 2, wherein said breaking-wave transmitting means intermittently transmits the communication breaking wave (Rypkema fig. 2: with switch 42, we can intermittently switch muting on or off and hence intermittently transmit breaking wave).

15. As per claim 7, Rypkema teaches a communication breaking device according to claim 3, wherein said breaking-wave transmitting means intermittently transmits the communication

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breaking wave (Rypkema fig. 2: with switch 42, we can intermittently switch muting on or off and hence intermittently transmit breaking wave).

16. As per claim 8, Rypkema teaches a communication breaking device according to claim 1, wherein the incoming waves are transmitted from a plurality of the communication apparatuses (Rypkema deals with television and since there are multiple television stations, there would be multiple television stations or communication apparatuses transmitting).

17. As per claim 9, Rypkema teaches a communication breaking device according to claim 2, wherein the incoming waves are transmitted from a plurality of the communication apparatuses (Rypkema deals with television and since there are multiple television stations, there would be multiple television stations or communication apparatuses transmitting).

18. As per claim 10, Rypkema teaches a communication breaking device according to claim 3, wherein the incoming waves are transmitted from a plurality of the communication apparatuses (Rypkema deals with television and since there are multiple television stations, there would be multiple television stations or communication apparatuses transmitting).

19. As per claim 11, Rypkema teaches a communication breaking device according to claim 4, wherein the incoming waves are transmitted from a plurality of the communication apparatuses (Rypkema deals with television and since there are multiple television stations, there would be multiple television stations or communication apparatuses transmitting).

20. As per claim 12, Rypkema teaches a communication breaking method adapted to a communication method which modulates or demodulates information about contents of communication with a predetermined code sequence, said communication breaking method

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comprising the step of: compensating the code sequence in an incoming wave by transmitting a communication breaking wave (103 discussed above with Rypkema).

21. As per claims 13 and 15, Rypkema teaches claims 1 and 12 as discussed earlier. What Rypkema does not teach is a portable telephone system. It would have been obvious to one skilled in the art at the time of the invention to modify Rypkema to teach communication breaking or muting for a portable telephone system. One would be motivated to do so since Rypkema already teaches muting sound (as the applicant has already acquiesced to) portable telephone systems exist for muting sound.

22. As per claims 14 and 16, Rypkema teaches claims 1 and 12 as discussed earlier. What Rypkema does not teach is CDMA. It would have been obvious to one skilled in the art at the time of the invention to modify Rypkema to teach CDMA. One would be motivated to do so for the advantages of using CDMA such as a greater number of users or stations being able to share a particular bandwidth.

### *Conclusion*

23. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

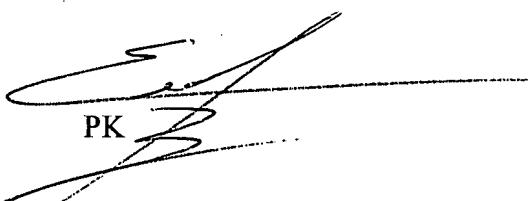
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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pankaj Kumar whose telephone number is (703) 305-0194. The examiner can normally be reached on Mon, Tues, Wed and Thurs after 8AM to after 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad H. Ghayour can be reached on (703) 306-3034. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.



PK

A handwritten signature in black ink, appearing to be "Pankaj Kumar". Below the signature, the initials "PK" are handwritten in a smaller, bold font.